IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13697 of 2007

DATED: 26.10.2007

Between:
K.Eashwer petitioner

And

The Chief Manager,
Central Bank of India, Rain Bazar Branch
Hyderabad and another Respondents

-
-

-

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13697 of 2007

ORAL ORDER:

In this writ petition, the petitioner is challenging the action of the respondent bank in making deductions from his pension account without passing any orders on his representation, as illegal and arbitrary.

The petitioner herein who was employed in the respondent bank as Computer Terminal Operator, retired from service by opting for Voluntary Retirement Scheme floated by the respondent bank. The respondent bank sanctioned a loan of Rs.1,28,200/- on 27.9.2000 to the son of the petitioner under Self Employment Scheme, for which loan transaction, the petitioner stood as a guarantor. On release of the loan amount, the son of the petitioner purchased an auto, which met with an accident and heavily damaged. The petitioner alleges that his son has sold the auto and paid an amount of Rs.8,000/- to the loan account and also paid certain instalments, however he could not pay the entire loan amount due to financial problems. The petitioner alleges that since the loan amount was not paid totally by his son, the

respondent bank without issuing any notice, has freezed his pension account on 12.1.2004. Thereafter, the petitioner issued letter dated 1.2.2004 to the respondent bank to deduct Rs.1000/- per month, till realization of principal amount. The grievance of the petitioner is that the respondent bank having realized the principal amount is continuing to deduct an amount of Rs.2000/- per month from his pension account towards interest, and also disputes calculation of interest. The petitioner submitted representation to waive the interest on the loan amount and since no action is taken he further submitted representations dated 18.12.2006, 26.12.2006 and 8.1.2007 and also issued a legal notice dated 24.2.2007. Since, no action is taken on the said representations, the present writ petition is filed.

A counter affidavit is filed by on behalf of the first respondent denying the allegations made in the writ petition and *inter-alia* stating that the petitioner is a guarantor to the loan obtained by his son and since the loan amount is not paid, legal notices were issued to the borrower and guarantor and on receipt of the same the petitioner being a guarantor has submitted letter dt 27.1.2004 authorising the respondent bank to deduct an amount of Rs.1000/- per month from February, 2004 onwards till the date of adjustment of overdue amount and Rs.2,000/- from 1st April, 2004 onwards, if they fail to produce the vehicle for inspection before March,2004. In terms of the said letter only, the respondent bank is deducting an amount of Rs.2000/- from his savings account. It is specifically stated that deduction of Rs.2000/- from his account is in terms of his letter dt 27.1.2004 and the

same cannot be termed as freezing of his account or violation of pension rules.

Heard the learned counsel for petitioner and learned standing counsel for respondent bank.

Admittedly, petitioner herein stood as guarantor to a loan transaction and since the borrower has defaulted payment of the balance loan amount, the respondent bank after issuing reminders for payment of the loan amount, issued legal notices to the borrower and the guarantor and on receipt of the same, the guarantor issued letter dated 27.1.2004, authorizing the respondent bank to deduct amounts from his account towards the realization of the balance loan amount. Hence, the respondent bank is recovering the balance loan amount from the guarantor under a valid commercial transaction and the same cannot be said to be illegal, warranting interference of this Court under Article 226 of the Constitution of India.

For the foregoing reasons, the writ petition fails and is liable to be dismissed and is hereby dismissed. No costs.

_____

N.V.RAMANA,J

DATED: 26.10.2007

TVK

38

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13697 of 2007

DATED: 26.10.2007